

REMARKS

The Office Action mailed on May 13, 2009, has been reviewed and the comments of the Patent and Trademark Office have been considered. Prior to this paper, claims 1-21 were pending. By this paper, Applicants do not add or cancel any claims. Therefore, claims 1-21 remain pending.

Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Interviews of July 22 and July 30, 2009

Examiner Foreman and Supervisor Hindenburg are thanked for extending the courtesy of an in-person interview to Applicants' representative on July 22, 2009, and Examiner Foreman is thanked for extending the courtesy of a telephone interview to Applicants' representative on July 30, 2009. During the interview of July 30, 2009, it was agreed that if the claims were amended as seen above, these claims would not be anticipated or obvious in view of the Akerfeldt-Vaiani combination (U.S. Patent No. 5,938,624 and U.S. Patent No. 5,374,285, respectively).

In view of the interviews held in July 2009, Applicants submit that the Interview Summary (a copy of which is attached in Appendix A) and the above provides a complete and proper recordation of the substance of the interviews, per MPEP §713.04.

Rejections Under 35 U.S.C. § 102

Claims 18-21 stand rejected under 35 U.S.C. §102(b) as being anticipated by Akerfeldt (U.S. Patent No. 5,938,624). In response, in order to advance prosecution, and without prejudice or disclaimer, Applicants have amended claims 18-21 as seen above. As was agreed upon during the telephone interview of July 30, 2009, Akerfeldt does not teach this added feature, and the combination of Akerfeldt with Vaiani would not render any of these claims obvious, either. Accordingly, Applicants respectfully submit that the rejections under §102 are now moot, and that the claims are allowable.

Rejections Under 35 U.S.C. § 103

Claims 1-17 stand rejected under 35 U.S.C. 103(a) as being anticipated by Akerfeldt in view of Vaiani. In response, in order to advance prosecution, and without prejudice or disclaimer, Applicants have amended claims 1 and 16, as seen above. As was agreed upon during the telephone interview of July 30, 2009, the combination of Akerfeldt with Vaiani would not render any pending claim obvious. Accordingly, Applicants respectfully submit that the rejections under §103 are now moot.

Conclusion

Applicants believe that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing or a credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicants hereby petition for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Examiner Foreman is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

Date 8/13/2009

By 

FOLEY & LARDNER LLP
Customer Number: 22428
Telephone: (202) 295-4747
Facsimile: (202) 672-5399

Martin J. Cosenza
Attorney for Applicants
Registration No. 48,892

APPENDIX A



Interview Summary

Application No.

10/812,914

Applicant(s)

VON MALMBORG ET AL.

Examiner

JONATHAN ML FOREMAN

Art Unit

3736

All participants (applicant, applicant's representative, PTO personnel):

(1) JONATHAN ML FOREMAN.(3) Martin J. Cosenza.(2) Max Hindenburg.

(4) _____.

Date of Interview: 7/22/09.

Type: a) ☐ Telephonic b) ☐ Video Conference
c) ☒ Personal [copy given to: 1) ☐ applicant 2) ☒ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 1-21.

Identification of prior art discussed: U.S. Patent No. 5,938,624 to Akerfeldt et al. U.S. Patent No. 5,374,285 to Vaiani et al.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/J. M. F./
Examiner, Art Unit 3736

/Max Hindenburg/
Supervisory Patent Examiner, Art Unit 3736

Summary of Record of Interview Requirements



Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

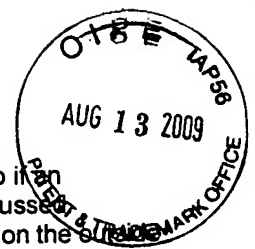
A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.



Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The Examiner's interpretation of the prior art was discussed. Proposed amendments related to the positioning of the conductors within the conductive member or not on the surface of the conductive member were discussed, which appear to overcome the art of record. Regarding claims 18 - 21, Applicant's disagree with the Examiner's interpretation of "immediate" as "near". New language will be considered via a telephone call from Applicant's representative. However, the amendments to the claims will be considered for patentability upon formal entry into the case .